

# ITEL

## Pullman

January 4, 1990

RECORDATION NO.

FILED 1425

JAN 9 1990 -10 05 AM

### IteI Rail Corporation

55 Francisco Street  
San Francisco, CA 94133  
(415) 984-4000  
(415) 781-1035 Fax

### INTERSTATE COMMERCE COMMISSION

Hon. Noreta R. McGee  
Secretary  
Interstate Commerce Commission  
Washington, DC 20423

0--009A005

Re: Amendment No. 1 to the Lease Agreements dated as of June 15, 1987 and July 28, 1987, between Rex Leasing, Inc. and Sisseton Milbank Railroad, Inc.

Dear Ms. McGee:

On behalf of IteI Rail Corporation, the above instrument, in three (3) counterparts, is hereby submitted for filing and recording pursuant to 49 U.S.C. Section 11303(a), along with the \$15 recordation fee.

Please record this Amendment under the Lease Agreement dated as of June 15, 1987, between Rex Leasing, Inc. and Sisseton Milbank Railroad, Inc., which was filed with the ICC on June 30, 1987, under Recordation No. 15257.

The parties to the aforementioned instrument are listed below:

Rex Leasing, Inc. (Lessor)  
55 Francisco Street  
San Francisco, California 94133

Sisseton Milbank Railroad, Inc. (Lessee)  
101 West Oak Street  
Sisseton, South Dakota 57252

This Amendment covers seventy-three (73) 100-ton covered hoppers bearing reporting marks SSOR 100-174 (n.s.).

Please return to the undersigned the stamped counterparts not required for filing purposes, together with the ICC fee receipt and acknowledgment letter.

Very truly yours,

*Patricia Schumacker*

Patricia Schumacker  
Legal Assistant

LINE SHIPMENT ONLY

06 JAN 09 1990

1/12/90

**Interstate Commerce Commission**  
Washington, D.C. 20423

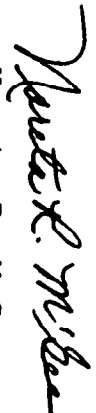
OFFICE OF THE SECRETARY

Patricia Schumacker  
Legal Assistant  
IteI Rail Corp.  
55 Francisco St  
San Francisco Calif. 94133

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 1/9/90 at 10:05am and assigned recordation number(s). 15257-A

Sincerely yours,

  
Noreta R. McGee  
Secretary

Enclosure(s)

JAN 9 1990 -10 05 AM

AMENDMENT NO. 1 INTERSTATE COMMERCE COMMISSION

AMENDMENT NO. 1 (the "Amendment") to those certain Lease Agreements dated as of June 15, 1987 and July 29, 1987 (the "Agreements") between REX LEASING, INC. ("Lessor") and SISSETON MILBANK RAILROAD, INC., as assignee to SLA PROPERTY MANAGEMENT PARTNERSHIP ("Lessee"), is made this 15 day of Sept, 1989.

## R E C I T A L S:

- A. Lessor and Lessee are parties to the Agreements pursuant to which railroad equipment has been leased to Lessee by Lessor and under which the parties may agree, in writing, to add additional equipment from time to time.
- B. Lessor and Lessee desire to transfer to Lessor car hire accounting responsibilities with respect to the equipment leased to Lessee.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereto agree to amend the Agreements as follows:

- 1. All terms defined in the Agreements shall have the meanings defined therein when used in this Amendment.
- 2. Effective as of July 1, 1989 the following Section 25 shall be added to the Agreements:

## 25. Car Hire Accounting.

- A. Lessor shall prepare and file all documents relating to the registration, maintenance and record keeping functions normally performed with respect to railroad equipment of the type subject to this Agreement including, but not limited to: (i) preparation of appropriate Association of American Railroads ("AAR") interchange agreements with respect to the Cars; (ii) registration of the Cars in the Official Railway Equipment Register and the Universal Machine Language Equipment Register ("UMLER"); and (iii) preparation of any reports as may be required from time to time by the Interstate Commerce Commission ("ICC") and any other regulatory agencies with respect to the Cars.

- B. If any Cars are placed into an assignment pool,

documents relating to the assignment pool shall be handled by the pool operator. All other record keeping functions relating to the use of the Cars by Lessee and railroads, including but not limited to car hire reconciliation, collection and receipt of revenues from other railroad companies, records pertaining to maintenance and repair, and billing in accordance with the AAR interchange rules adopted by the AAR Mechanical Division, Operations and Maintenance Department ("Interchange Rules") shall be performed by Lessor and Lessor shall continue to do so for the duration of the Agreement with respect to the Cars described on such Schedule. All record keeping performed hereunder and all records of payments, changes and correspondence related to the Cars shall be separately recorded and maintained in a form suitable for reasonable inspection by Lessee from time to time during regular business hours. Upon Lessor's request, Lessee shall supply Lessor with all records relating to and telephone reports of all the Cars bearing SMRR reporting marks.

- C. Immediately upon receipt from any railroad of any revenues in the form of a draft, check or other instrument payable to Lessee, Lessor shall be entitled to endorse and deposit such draft, check or other instrument into Lessor's account. Lessee shall insure that its payable car hire records are transmitted to the AAR in an acceptable format so as to be included in the monthly AAR Car Hire Exchange Tape. Lessee shall reimburse Lessor for additional expenses incurred in excess of AAR Car Hire Exchange Tape costs.
- D. Lessee authorizes Lessor to subscribe to Train 62, 65, 67 and 80 Advices. Upon Lessor's reasonable request, Lessee shall promptly provide Lessor with records of Lessee's car hire payables. In the event Lessee fails to provide Lessor with records of car hire payables, and a user or handling railroad refuses to pay any revenues owed, Lessee shall, within ten (10) days after Lessor's request, pay to Lessor such unpaid revenues. If, for any reason, Lessor does not subscribe to Train 65 and 67 Advices, Lessee shall, within ten (10) days after the close of each calendar month, supply Lessor with copies of Lessee's interchange records with respect to Cars interchanged to and from Lessee's railroad line.
- E. For all Cars bearing SMRR reporting marks Lessor shall perform Car Hire Accounting at a cost to

Lessee of [REDACTED] per Car per month. This fee shall be invoiced at the end of each service month for which it is applicable and Lessee shall pay such amount within twenty (20) days of the date of such invoice.

- F. Lessee shall provide Lessor with the UMLER passkey necessary for registering such Cars and shall authorize Lessor to receive the UMLER Fleet Tape. Lessee shall, within thirty (30) days of notification that Lessor has paid a car repair bill for equipment bearing reporting marks not leased to Lessee by Lessor or for which Lessee is responsible for the cost of maintenance as set forth in the Agreement (or any other agreement between Lessor and Lessee), Lessee shall reimburse Lessor for any amount paid.
  - G. Lessor shall perform car hire accounting for any equipment acquired or leased by Lessee from a party other than Lessor, which equipment bears the same reporting marks as any Car for which Lessor performs car hire accounting ("Other Equipment"). Such car hire accounting shall be performed upon terms agreed upon between the parties, the terms of which are set forth herein ("Car Hire Agreement"). Under such Car Hire Agreement, Lessor shall, on behalf of Lessee, receive car hire rental and other payments relating to the use and handling of the Other Equipment by other railroads ("Funds") and shall deposit the Funds into an Agency Bank Account for the purpose of segregating the Funds from the revenues relating to the Cars so as to ensure that the interests of both Lessor and Lessee are protected. Such Car Hire Agreement provides that Lessee shall pay Lessor on a monthly basis a fee which is mutually agreeable to Lessor and Lessee.
- 4. Lessor shall forward to Lessee on a monthly basis and within seventy (70) days of the end of the service month, a check in the amount of the revenues collected under the terms of this Car Hire Agreement.
  - 5. Except as expressly modified by this Amendment, all terms and provisions of the Agreements shall remain in full force and effect.

6. This Amendment may be executed by the parties hereto in multiple counterparts and all said counterparts taken together shall be deemed to constitute one and the same instrument.

REX LEASING, INC.

By: [Signature]

Title: President

Date: October 3, 1989

SISSETON MILBANK  
RAILROAD, INC.

By: [Signature]

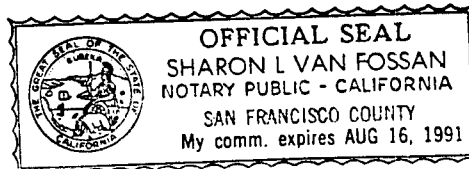
Title: Director

Date: 9-15-89

STATE OF CALIFORNIA )  
 ) SS:  
COUNTY OF SAN FRANCISCO )

On this 3rd day of October, 1989, before me personally appeared JEFFREY C. CORBETT, to me personally known, who being by me duly sworn says that such person is President of Rex Leasing, Inc., that the foregoing Amendment No. 1 was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

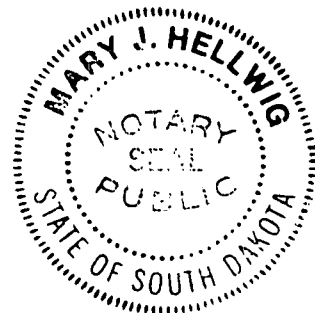
Sharon L. Van Fossan  
Notary Public



STATE OF South Dakota )  
 ) SS:  
COUNTY OF Roberts )

On this 15th day of September, 1989, before me personally appeared Gordon Wenschlag, to me personally known, who being by me duly sworn says that such person is Director of Sisseton Milbank Railroad, Inc. that the foregoing Amendment No. 1 was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Mary J. Hellwig  
Notary Public



4277 Hearing Operator - 11/3/87

RECORDATION NO. 15364  
OFFICE OF THE  
PROVIDER OF  
INTERSTATE COMMERCE

10-26-88-14364-1